



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087872,446	06/10/97	MACEVICZ	S 5525-0015.20

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EXAMINER  
WHISENANT, E

ART UNIT	PAPER NUMBER
1634	7

DATE MAILED: 08/03/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/872,446</b>	Applicant(s)	<b>Macevicz, S.</b>
	Examiner <b>Ethan Whisenant</b>	Group Art Unit <b>1634</b>	

Responsive to communication(s) filed on 12 May 1998

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 18 and 19 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 19 is/are allowed.

Claim(s) 18 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

**Part III DETAILED ACTION**

**1.** The applicant's Response to the Office Action has been entered. The applicant's response was received on 15 MAY 98 and has been entered as paper no. 4. The claims pending in this application are Claims 18 and 19. Rejections and/or objections not reiterated from the previous office action are hereby withdrawn. The following rejections and/or objections are either newly applied or reiterated. They constitute the complete set presently being applied to the instant application.

**35 USC § 102**

**2.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that may form the basis for rejections in this Office action:

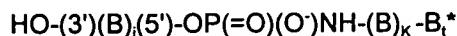
A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**CLAIM REJECTIONS - 35 USC § 102**

**3.** Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Levina et al. (1993).

Claim 18 is drawn to an oligonucleotide probe of the formula:



wherein B is a nucleotide or an analog thereof; j is in the range of from 1 to 12; k is in the range of from 0 to 8, such that the sum of j and k is less than or equal to 12; and  $B_t^*$  is a labeled nonextendable chain terminating moiety. Levina et al. teach such an oligonucleotide, see p.26, bottom of the first column. Note

that in Lavina et al. the labeled nonextendable chain terminating moiety is the *p*-azidotetrafluorobenzamido group.

**RESPONSE TO APPLICANT'S AMENDMENT AND/OR ARGUMENTS**

**4.** Applicant's arguments with respect to the claimed invention have been considered but are moot in view of the new ground(s) of rejection.

**CONCLUSION**

**5.** Claim 19 is allowable.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D whose telephone number is (703) 308-6567. The examiner can normally be reached Monday-Friday from 8:00AM -4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached at (703) 308-1152.

The fax number for this Group is (703) 305-7401. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0196.

*ECW*

Ethan Whisenant, Ph.D.  
Patent Examiner

*S. Zitomer*  
STEPHANIE W. ZITOMER  
PRIMARY EXAMINER